

Conservation Tools under ESA Sections 4d, 7, and 10

NMFS Northwest Region, September 2000

ESA Tool	Species Covered	Assurances	Characteristics
4(d) Rule Limits	14 threatened salmon and steelhead ESUs in OR, WA, ID, and CA for which 4(d) rules were issued July 10, 2000	Take prohibition not applied to activities approved under one of the 13 limits in the 4(d) rule.	A program can be approved as qualifying under one of the existing 4(d) limits after review by NMFS and the public. NMFS review is based on high likelihood of meeting PFC for habitat or VSP for population effects. The only currently available 4(d) limits are the 13 described in the final rule. NMFS is confident that as more large-scale conservation solutions are found, these efforts will be recognized in future rulemaking. For additional information, see the "4(d) Rule Implementation Binder."
7(a)(2) consultation and 7(b)(4) incidental take statement	Any listed species (threatened or endangered) or any species proposed for listing	Incidental or direct "take" is allowed under stated conditions. Consultation may be reinitiated as conditions change, or permitted "take" is exceeded.	Federal agency to agency consultation on direct Federal activities, Federally permitted activities, and Federally funded activities (although the take coverage can be extended to non-Federal actors). NMFS review ensures that the Federal action will not jeopardize the continued existence of the species. This review is based on high likelihood of meeting PFC for habitat or VSP for populations. No public review required.
10(a)(1)(B) permit	Any listed species (threatened or endangered) and any unlisted species that may become listed	Incidental "take" is permitted for all covered species. Non-Federal actors may then proceed with activities that otherwise would result in illegal take. "No Surprises" assurances are provided by the government, whereby landowners are assured that, for as long as they implement the terms and conditions of the HCP, the government will not require commitment of additional resources or additional restrictions on natural resources beyond those agreed to in the HCP	Available to non-Federal parties. "Incidental take permit" is based on a comprehensive Habitat Conservation Plan (HCP), which identifies impacts and how they will be avoided, minimized, and mitigated. HCPs must comply with NEPA, undergo public review, and include monitoring for compliance. NMFS review is based on high likelihood of meeting PFC for habitat or VSP for populations. Additional criteria for HCPs can be found at 50 CFR 222.307.